

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Governmental Oversight and Accountability Committee

BILL: SB 202

INTRODUCER: Senator Baker

SUBJECT: Firefighter Death Benefits

DATE: March 11, 2010

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gizzi	Yeatman	CA	Favorable
2.	Naf	Wilson	GO	Pre-meeting
3.			GA	
4.			WPSC	
5.				
6.				

I. Summary:

This bill expands circumstances in which a firefighter's employer must pay an additional accidental death benefit to the firefighter's beneficiary to include payment when a firefighter's death is due to participation in a training exercise. This bill also expands circumstances in which a firefighter's employer must pay an additional death benefit by requiring payment when a firefighter is injured in the performance of his or her duties and dies as a result of such injury. Both benefit payments are adjusted based on the Consumer Price Index.

This bill substantially amends s. 112.191, F.S.

II. Present Situation:

Firefighter Death Benefits

Section 112.191(2)(a), F.S., requires a firefighter's employer or employer's insurer to pay a firefighter's beneficiary a \$50,000 death benefit payment, adjusted for inflation, if that firefighter is accidentally killed while *engaging in the performance of his or her firefighter duties*, or if that firefighter receives an accidental injury in the line of duty and the injury results in the death of the firefighter.

In addition to the accidental death benefit payment required under s. 112.191(2)(a), s. 112.191(2)(b), F.S., requires a firefighter's employer or employer's insurer to pay a firefighter's beneficiary an additional \$50,000 payment, adjusted for inflation, if that firefighter is accidentally killed in the line of duty *while responding to an emergency involving the protection of life and property*.

If a firefighter is *unlawfully and intentionally* killed, or dies as a result of a fire caused by an act of arson, s. 112.191(2)(c), F.S., requires the firefighter's employer or employer's insurer to pay the firefighter's beneficiary a death benefit payment of \$150,000, adjusted for inflation.

The amounts of benefit payments under s. 112.191(2)(a)-(c), F.S., are statutorily-established and are adjusted each year based on the Consumer Price Index for all urban consumers, which is published by the U.S. Department of Labor.¹ The Division of State Fire Marshal within the Department of Financial Services adjusts the statutory amount by July 1 of each year using the most recent month for which data are available at the time of the adjustment.² The current death benefit amount for firefighters is:

- \$59,879 for an accidental death or injury that results in death under s. 112.191(2)(a), F.S.;
- \$59,879 in addition to the payment made under s. 112.191(2)(a), F.S., for an accidental death that occurs while the firefighter was responding to an emergency involving the protection of life and property under s. 112.191(2)(b), F.S.; and
- \$166,779.27 if the firefighter is unlawfully or intentionally killed or dies as a result of a fire caused by an act of arson under s. 112.191(2)(c), F.S.

Firefighter employers³ are required to maintain an ability to pay the benefits provided in s. 112.191, F.S., and at the request of the Division of State Fire Marshal, may be required to provide evidence of their ability to pay.⁴

The benefits outlined in s. 112.191, F.S., are in addition to any benefits a firefighter may be entitled to under a workers compensation or pension plan.⁵

Current definition of “line of duty”

Under Rule 69A-64.002, F.A.C., the terms “line of duty” or “engaging in the performance of his or her firefighter duties” means:

- Engaging in any activity which is within the firefighter's job or position description or scope of employment, regardless of whether the firefighter was actually “on duty” at his or her place of employment or not; or
- Responding to any emergency or reasonably believing that he or she is responding to an emergency; or
- Fighting a fire or engaging in any emergency life or property saving activity; or
- Returning from responding to any emergency or from having reasonably believed that he or she was responding to an emergency.

¹ Section 119.191(2)(i), F.S.

² Section 112.191(2) (i), F.S., *See also* Rule 69A-64.005, F.A.C.

³ Section 112.191(1)(a), F.S., defines “employer” to mean a “state board, commission, department, division, bureau or agency, or a county, municipality, or other political subdivision of the state”.

⁴ Rule 69A-64.003, F.A.C., *See also* s. 112.191(4)(a), F.S.

⁵ Section 112.191(2)(e), F.S. *See also* Division of State Fire Marshal website. *State of Florida Line-of-Duty Death Resources* available at <http://www.myfloridacfo.com/SFM/LODDResource.htm> (last visited on February 1, 2010).

III. Effect of Proposed Changes:

The bill expands the purposes for which an additional accidental death benefit of \$50,000, adjusted for inflation, is payable by requiring payment of the benefit when a firefighter's death occurs due to participation in a training exercise.

The bill also expands the purposes for which a death benefit of \$150,000, adjusted for inflation, is payable by requiring payment of the benefit when a firefighter is injured while engaged in the performance of his or her firefighter duties and dies as a result of such injury.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Additional death benefits are payable to the beneficiaries of firefighters who are killed during a training exercise or as a result of an injury during the performance of his or her duties. [These benefits include accidental death and dismemberment payments as well as the payment of specified health insurance premiums.]

C. Government Sector Impact:

The Division of State Fire Marshal may need to amend Rule 69A-64.002, F.A.C., to provide a definition for "training" as it pertains to section 112.191, F.S.

The Department of Management Services has determined that this bill will not have a fiscal impact on the Department.⁶ However, the impacts to local governments are not known at this time.

⁶ Department of Management Services, *Senate Bill 202 Fiscal Analysis* (Feb. 5, 2010) (on file with the Senate Committee on Community Affairs).

VI. Technical Deficiencies:

None.

VII. Related Issues:

Line 28 of the bill provides that a firefighter's beneficiary is entitled to a payment of \$150,000, adjusted for inflation, if that firefighter is injured while engaged in the performance of his or her firefighter duties and dies as a result of such injury. Without clarification that such an injury must be unlawful and intentional, this provision could be inconsistently construed and could create conflict with s. 112.191(2)(a), which provides that a firefighter's beneficiary is entitled to a payment of \$50,000, adjusted for inflation, if that firefighter is *accidentally* injured while engaged in the performance of his or her firefighter duties and dies as a result of such injury.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.